

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PERL FELBERBAUM,

Petitioner,

-against-

YAAKOV FELBERBAUM,

Respondent.

**ORDER**

24-CV-02333 (PMH)

PHILIP M. HALPERN, United States District Judge:

On July 12, 2024, the Court issued an order advising Petitioner that it appeared that the Court lacks personal jurisdiction over Respondent due to Petitioner's failure to effectuate proper service of process upon Respondent. (Doc. 14). The Court, in that order, referenced the applicable law and detailed the means by which Petitioner could cure this jurisdictional defect. (*Id.* at 2-3). The Court specifically advised Petitioner that she "must request the issuance of a summons in order to effectuate service" and referred Petitioner "to the Electronic Case Filing Rules & Instructions for the Southern District of New York for rules and guidance concerning, *inter alia*, requests for the issuance of summonses in this court." (*Id.* at 3). The Court further warned Petitioner "that failure to timely and properly effectuate service on Respondent by August 26, 2024 will result in dismissal of this action." (*Id.*).

On August 23, 2024, Petitioner filed an attorney affirmation stating that he sent "the Rule 65B Emergency Notice, Proposed Emergency Order to Show Cause, Petition, Memorandum of Law, Exhibits and other documents related to the instant case" by Federal Express to the Respondent. (Doc. 15). On August 25, 2024, Petitioner filed an affidavit of service indicating that the "Order to Show Cause with Exhibits" was served upon Respondent personally on August 23, 2024. (Doc. 16).

Petitioner, to date, has not requested the issuance of summons nor has a summons been served upon Respondent.

The Court was very clear in its July 12, 2024 order that the failure to comply with Federal Rule of Civil Procedure 4, which requires service of summons, would be fatal to this action. The Court *sua sponte* extends the time for Petitioner to comply to **September 6, 2024**. Unless Petitioner obtains a summons in accordance with this Court's rules and serves it personally upon Respondent by **September 6, 2024**, this action will be dismissed without prejudice and without further notice.

Separately, Petitioner filed a letter on August 25, 2024 requesting that the Court sign the order to show cause proposed by Petitioner. (Doc. 17). The Court directs Petitioner to the July 12, 2024 order that detailed why the Court cannot and will not sign the proposed order to show cause. (*Id.* at 3-4). As Petitioner has not produced a sufficient record nor corrected the deficiencies noted in the Court's prior orders, the request that the Court sign the order to show cause proposed by Petitioner is denied.

**SO ORDERED:**

Dated: White Plains, New York  
August 26, 2024



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PHILIP M. HALPERN  
United States District Judge